

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 57 Introduced BR # 284 DOC ID #: xxx

BILL SPONSOR(S): Rep. C. Freeland, T. Bojanowski, K. Flood, J. Graviss, S. Lewis, P. Minter, J. Raymond, R. Roberts, D. Schamore, S. Westrom, B. Wheatley, R. White, L. Willner AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to torture of a dog or cat.

**SUMMARY OF LEGISLATION:** Amend KRS 525.135, relating to torture of a dog or cat, to add specific acts to definition of torture; make all violations a Class D felony; make each act of torture prosecutable as a separate offense; make the exemptions applicable only where there is no intent to cause, increase, or prolong the pain and suffering of the dog or cat.

**AMENDMENT:** .

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This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |   |  |
|---|--|
| <input type="checkbox"/> Creates new crime(s)   | <input type="checkbox"/> Repeals existing crime(s)               |
| <input checked="" type="checkbox"/> Increases penalty for existing crime(s)           | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration                                      | <input type="checkbox"/> Decreases incarceration                 |
| <input type="checkbox"/> Reduces inmate/offender services                             | <input type="checkbox"/> Increases inmate/offender services      |
| <input type="checkbox"/> Increases staff time or positions                            | <input type="checkbox"/> Reduces staff time or positions         |
| <input checked="" type="checkbox"/> Changes elements of offense for existing crime(s) |  |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) .                  |  |
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**STATE IMPACT:** Class A, B, & C felonies are based on an average daily prison rate of \$80.24. Community Custody Class C and most Class D felons are housed in one of seventy-seven (77) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$37.35 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

The proposed legislation amends KRS 525.135. The definition of torture is amended by removing the word intentional. Added is wording for causing pain and suffering (current statute specifies increasing or prolonging pain). Several examples of torture are added, to include items such as burning, drowning, or suffocating. Physical disfigurement and loss of function of limb or bodily organ as specified. The definition of torture also includes deprivation of food, water, shelter, and medical care while restraining the animal with wanton regard for its pain, suffering, injury, or death. A definition of restraint is provided. Specification of application to a domestic dog or cat is removed.

Under current statute Torture of a Dog or Cat is a Class A misdemeanor for a first offense, a Class D felony for subsequent offenses, and a Class D felony for serious physical injury or death. The proposed legislation removes the misdemeanor offense, elevating the offense of Torture of Dog or Cat to a Class D felony.

Each act of torture may be charged as a separate offense.

Wording is added confirming that offense of Torture of a Dog or Cat does not apply to the killing or injuring of a dog or cat without intent to cause, increase, or prolong pain or suffering.

AOC reflects seven (7) convictions for this offense in FY 2020, three (3) for a misdemeanor first offense and four (4) for Torture of a Dog or Cat with Serious Physical Injury/Death.

Department of Corrections records currently reflect eight (8) inmates with the Class D felony related to Torture of a Dog or Cat. Additionally, there are a total of eleven (11) offenders on community supervision under this statute, one (1) under the misdemeanor offense and ten (10) for the felony offense.

Under the legislation, due to the removal of a misdemeanor offense, there would be an increase in felony convictions. Class D offenders would be housed at a county jail at a daily cost to the state of \$37.35. The shift from misdemeanor to felony levels is unlikely to change the rate of incarceration.

Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost KY \$136,345.44 to \$681,727.22

1 Class D Felon costs KY \$13,634.54 to \$68,172.72

100 Class D Felons cost KY \$1,363,454.45 to \$6,817,272.25

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. The estimated impact will be based on the \$37.35 cost to incarcerate while \$31.34 is the per diem and medical that DOC pays jails to house felony offenders. Since the cost to incarcerate is an estimated average cost of housing an inmate, this may not be the actual housing cost for the jail.\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

Under current statute, misdemeanor offenders with a conviction of Torture of a Dog or Cat are subject to county costs, which felony offenders under Torture of a Dog or Cat are housed at county detention facilities with the jail receiving \$31.34 daily reimbursement.

Under the legislation, all offenses would become felony convictions, at the cost of the Commonwealth.

The expansion of the conduct that constitutes an offense under this legislation may add to the overall number of offenders who are convicted of Torture of a Dog or Cat, and though it is not possible to estimate the impact, it would not be expected to greatly increase the number of convictions under this offense.

Overall, given the limited number of offenders with this specific offense, the impact of the legislation on incarceration costs is expected to be minimal to moderate.

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**Projected Corrections Impact from Amendments:**

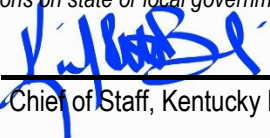
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*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

**The following offices contributed to this Corrections Impact Statement:**

Dept. of Corrections  Dept. of Kentucky State Police  Administrative Office of the Courts  Parole Board  Other

NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population, lengthens the term or incarceration, or impose new obligations on state or local governments.

**APPROVED BY:** 

Chief of Staff, Kentucky Department of Corrections

1/12/2021

Date